IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO. 8752 OF 2006

HINDUSTAN LEVER LTD. ...PETITIONERS.

VS.

HINDUSTANF LEVER EMPLOYEES UNION. ...RESPONDENTS.

MR. C.U.SINGH SR. ADVOCATE WITH SANJAY UDESHI I/B. M/S. SANJAY UDESHI & CO. FOR THE PETITIONERS AND MR. SUDHIR TALSANIA SR. ADVOCATE I/B. BAPAT D'COSTA FOR RESPONDENTS.

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CORAM : A.P.DESHPANDE, J.

DATE : February 21, 2007.

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P.C.

1. Heard the learned Counsel for the Petitioners and Respondents.

2. An interlocutory Order passed by the Labour

Court, dated 6.11.2006, is challenged by filing the present writ petition.

3. The Petitioner is a Limited Company, incorporated under the Companies Act, having its detergent factory at Daman. There are two Unions operating in the Factory at Daman, one by name Association of Chemical Workers Union and the other is the present Respondent NO.1. The Petitioner signed a settlement with the Chemical Workers Union, revising the service conditions, dated 24th August, 2003. The settlement includes benefits to be extended and the obligations to be performed. What was offered to the members of the Cheemical Workers Union was also offered to the members of the Respondent No.1 - Union but they did not accept the same and also refused to accept the terms of the settlement. The Respondent had raised a charter of demands and after the said charter of demands was raised, a reference was made by the appropriate Government for adjudication of the demands to the Labour Court. The Rspndent- Union made an application before the Labour Court for extending the benefits under the setlement, which were extended to the members of the Chemical Workers Union.

4. The petitioner opposed the prayer made by the

Rspondents by contending that if the members of the Respondent Union are to be extended the benefits under the settlement, they must also abide themselves by the obligations forming a part of the same settlement.

5. Considering the rival contentions of the parties, the Labour Court, by an Order dated 2nd January, 2006, granted interim relief by passing the following Order :-

> "The benefits, wages and ex-gratia applicable on the basis of the settlemnt dated 24.8.2003 signed with the Association of the Chemical Workers is hereby extended to all the workmen covered by this reference from the date of the Reference Application i.e. 29.09.2004 subject to undertaking to be furnished as per Annexure-C by the workmen"

6. It is the case of the Petitioners that it was open for the members of the Respondent-Union either to sign the undertaking as per Annexure-C or not to sign the same. But the Members of the Respondent-Union having signed the Annexure-C, which an undertaking to abide by the terms of the settlement,

the reference itself is rendered infructuous.

7. It may not be out of place to state at this juncture that about 59% of the members have signed the settlement whereas 41% members, who are mmbers of the Respondent have not signed the settlement. Annexure-C records that the workmen accepted the terms and conditions mentioned in the said settlement.

8. Reading of the Order passed by the Labour Court, in the light of the undertaking, it is ably contended by the learned Counsel for the Petitioners that after executing the undertaking, the Members of the Respondent-Union have received all the benefits and are bound by the obligations under the settlement and hence, the reference has become infructuous or nonest.

9. In these premises, the petitioners moved an application before the Labour Court for disposal of the reference as infructuous. The rejection of the said application has given rise to the filing of the instant writ petition.

10. No doubt, the Labour Court has recorded

finding that the said application has been made with malafide intention of delaying the matter and dismissed the same with cost, no reasons are assigned in support of the said finding. However, as the impugned Order is an inter locutory one, I am of the clear view tha thet the same does not need to be interfered at this stage. However, it is made clear that the observation recorded in the Order dated 6.11.2006, about the application being filed with malafide intention for delaying the matter, is not well founded and hence, the same stands quashed.

11. It shall be open for the Petitioner to urge before the Labour Court all the grounds that are raised in its application, dated 2.9.2006 and the Labour Court shall decide the said objections while deciding the reference on merit. It is specifically observed that all the contntions raised in this petition shall be available to the Petitioner for being raised ebfore the Labour Court and the Labour Court shall consider the same on merit, having regard to the legal position and decide the same while deciding the reference finally.

12. With these observations, the writ petition stands disposed of.

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[A.P.DESHPANDE, J.]

13. I expect the Labour Court to decide the reference as expeditiously as possible and I also expect the decision within a period of six months from today.

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[A.P.DESHPANDE, J.]